



UNITED STATES PATENT AND TRADEMARK OFFICE

ml

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,642	02/10/2004	Sachin Desai	OR03-12701	1300

51067 7590 03/07/2007
ORACLE INTERNATIONAL CORPORATION
c/o PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

EXAMINER

GILLIS, BRIAN J

ART UNIT	PAPER NUMBER
----------	--------------

2141

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/775,642	DESAI ET AL.	
	Examiner	Art Unit	
	Brian J. Gillis	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2006 and 23 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 11, 2006 has been entered.

Claim Objections

Claim 12 is objected to because of the following informalities: The claim recites "at a locaton between" in lines 9 and 11-12. The Examiner interprets this as a typographical error. Appropriate correction is required.

Claim 13 is objected to because of the following informalities: The claim recites "at a locationbetween" in line 9. The Examiner interprets this as a typographical error. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 6, 7, 12, and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 2141

Claim 1 recites the limitation "the set of data" in line 11. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the determined bandwidth" in line 12. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the limitation "the set of data" in line 14. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the limitation "the determined bandwidth" in line 15. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitation "the requested data" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitation "the server" in lines 8 and 10. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitation "the data" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim 12 recites the limitation "the requested data" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim 12 recites the limitation "the server" in lines 10 and 12. There is insufficient antecedent basis for this limitation in the claim.

Claim 12 recites the limitation "the data" in line 11. There is insufficient antecedent basis for this limitation in the claim.

Claim 13 recites the limitation "the server" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1 and 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neeman et al (Foreign Publication GB 2367219A) in view of Hunt et al (US Patent #5,764,235), in view of Jason, Jr. (US PG PUB US2003/0061356) in view of Afergan et al (US PG PUB US2004/0010621).

Claim 1 discloses an automated method of dynamically selecting a level of compression to be applied to data to be transmitted, the method comprising: receiving a data request at a server configured to serve data; identifying a bandwidth associated with a communication link coupling the server to a requestor that originate the data request; determining an amount of data requested in the data request; determining how

Art Unit: 2141

busy the server is; determining whether the requested data is cacheable at a location between the server and a client; dynamically selecting a level of compression to apply to the set of data based on the determined bandwidth and whether the data is cacheable at a location between the server and the client; and compressing the requested data using the selected level of compression. Neeman et al teaches of a source sends requested data to clients (page 8, lines 1-3), the bandwidth is determined over the transmission link (page 9, lines 4-6), the level of compression is set according to the bandwidth (page 9, lines 30-32), and the data is compressed (page 9, lines 20-29). It fails to teach of determining an amount of data requested in the data request, determining how busy the server is, and determining whether the requested data is cacheable at a location between the server and a client. Hunt et al teaches of determining the amount of data requested in the request (column 9, lines 37-54).

Neeman et al and Hunt et al are analogous art because they are both related to transmitting data over a network based on conditions.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the amount determination in Hunt et al with the system in Neeman et al because available bandwidth is used more efficiently (Hunt, column 2, lines 10-12).

Neeman et al in view of Hunt et al teaches of the limitations as recited above. It fails to teach of determining how busy the server is and determining whether the requested data is cacheable at a location between the server and a client. Jason, Jr. teaches of a load monitor, which determines the busy the server is (paragraph 36).

Art Unit: 2141

Neeman et al in view of Hunt et al and Jason, Jr. are analogous art because they are both related to conditionally transmitting data over a network.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the load monitor in Jason, Jr. with the system in Neeman et al in view of Hunt et al because overloading can be prevented (Jason, paragraph 36).

Neeman et al in view of Hunt et al and Jason, Jr. teaches of the limitations as recited above. It fails to teach of determining whether the requested data is cacheable at a location between the server and a client. Afergan et al teaches of an edge server stores uncompressed content if it is cacheable and the data is compressed if cacheable once a request for the data is received (figure 3, paragraph 30).

Neeman et al in view of Hunt et al in view of Jason, Jr. and Afergan et al are analogous art because they are both related to compressing network data.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the edge server in Afergan et al with the system in Neeman et al in view of Hunt et al in view of Jason, Jr. because accelerated delivery of content is provided (Afergan et al, paragraphs 9 and 11).

Claim 4 discloses the method of claim 1, wherein said identifying comprises retrieving the bandwidth from a database. Neeman et al further teaches the bandwidth may be returned from a receiving client who simply reports the bandwidth (page 9, lines 5-6).

Claim 5 discloses the method of claim 1, wherein said dynamically selecting comprises identifying a level of compression suitable for the bandwidth. Neeman et al

Art Unit: 2141

further teaches the level of compression chosen is suitable for the bandwidth (page 9, line 30 – page 10, line 3).

Claim 6 discloses a computer readable medium storing instructions that, when executed by a computer, cause the computer to perform a method of dynamically selecting a level of compression to be applied to data to be transmitted; the method comprising: receiving a data request at a server configured to serve data; identifying a bandwidth associated with a communication link coupling the server to a requestor that originate the data request; determining an amount of data requested in the data request; determining how busy the server is; determining whether the requested data is cacheable at a location between the server and a client; dynamically selecting a level of compression to apply to the set of data based on the determined bandwidth and whether the data is cacheable at a location between the server and the client; and compressing the requested data using the selected level of compression. Neeman et al teaches of a source sends requested data to clients (page 8, lines 1-3), the bandwidth is determined over the transmission link (page 9, lines 4-6), the level of compression is set according to the bandwidth (page 9, lines 30-32), and the data is compressed (page 9, lines 20-29). It fails to teach of determining an amount of data requested in the data request, determining how busy the server is and determining whether the requested data is cacheable at a location between the server and a client. Hunt et al teaches of determining the amount of data requested in the request (column 9, lines 37-54).

Neeman et al and Hunt et al are analogous art because they are both related to transmitting data over a network based on conditions.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the amount determination in Hunt et al with the system in Neeman et al because available bandwidth is used more efficiently (Hunt, column 2, lines 10-12).

Neeman et al in view of Hunt et al teaches of the limitations as recited above. It fails to teach of determining how busy the server is and determining whether the requested data is cacheable at a location between the server and a client. Jason, Jr. teaches of a load monitor, which determines the busy the server is (paragraph 36).

Neeman et al in view of Hunt et al and Jason, Jr. are analogous art because they are both related to conditionally transmitting data over a network.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the load monitor in Jason, Jr. with the system in Neeman et al in view of Hunt et al because overloading can be prevented (Jason, paragraph 36).

Neeman et al in view of Hunt et al and Jason, Jr. teaches of the limitations as recited above. It fails to teach of determining whether the requested data is cacheable at a location between the server and a client. Afergan et al teaches of an edge server stores uncompressed content if it is cacheable and the data is compressed if cacheable once a request for the data is received (figure 3, paragraph 30).

Neeman et al in view of Hunt et al in view of Jason, Jr. and Afergan et al are analogous art because they are both related to compressing network data.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the edge server in Afergan et al with the system in Neeman et al in

Art Unit: 2141

view of Hunt et al in view of Jason, Jr. because accelerated delivery of content is provided (Afergan et al, paragraphs 9 and 11).

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Neeman et al (Foreign Publication GB 2367219A) in view of Hunt et al (US Patent #5,764,235), in view of Jason, Jr. (US PG PUB US2003/0061356) in view of Afergan et al (US PG PUB US2004/0010621) as applied to claim 1 above, and further in view of Willes et al (US PG PUB US2005/0120128).

Claim 3 discloses the method of claim 1, wherein said identifying comprises transferring a known quantity of data between the server and the requestor. Neeman et al in view of Hunt et al in view of Jason, Jr. in view of Afergan et al teaches of the limitations of claim 1 as recited above. It fails to teach of identifying the bandwidth by transferring a known quantity of data between the server and the requestor. Willes et al teaches of measuring throughput capacity, which is widely known to transfer a known quantity of data between to points to measure bandwidth (paragraph 68).

Neeman et al in view of Hunt et al in view of Jason, Jr. in view of Afergan et al and Willes et al are analogous art because they are both related to compressing and transmitting data over a network.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the throughput capacity measuring feature in Willes et al with the system in Neeman et al in view of Hunt et al in view of Jason, Jr. in view of Afergan et al because a system to reliably send data across a network which is efficient and able to change to conditions is provided.

Art Unit: 2141

Claims 7, 8, 12-14, 16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neeman et al (Foreign Publication GB 2367219A) in view of Afergan et al (US PG PUB US2004/0010621).

Claim 7 discloses a computer-implemented method of dynamically selecting a level of compression to apply to a set of data, the method comprising: receiving from a client a request for a set of data; determining a bandwidth available on a communication link used by the client; determining whether the requested data is cacheable at a location between the server and a client; based on the determined bandwidth and whether the data is cacheable at a location between the server and the client, dynamically selecting a level of compression to apply to the set of data; and compressing the data using the selected level of compression prior to transmitting the set of data toward the client. Neeman et al teaches a source sends requested data to clients (page 8, lines 1-3), the bandwidth is determined over the transmission link (page 9, lines 4-6), the level of compression is set according to the bandwidth (page 9, lines 30-32), and the data is compressed (page 9, lines 20-29). It fails to teach of determining whether the requested data is cacheable at a location between the server and a client. Afergan et al teaches of an edge server stores uncompressed content if it is cacheable and the data is compressed if cacheable once a request for the data is received (figure 3, paragraph 30).

Neeman et al and Afergan et al are analogous art because they are both related to compressing network data.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the edge server in Afergan et al with the system in Neeman et al because accelerated delivery of content is provided (Afergan et al, paragraphs 9 and 11).

Claim 8 discloses the method of claim 7, wherein the dynamically selected level of compression is inversely proportional to the determined bandwidth. Neeman et al teaches the compression is selected based on bandwidth (page 12, lines 6-12).

Claim 12 discloses a computer readable medium storing instructions that, when executed by a computer, cause the computer to perform a method of dynamically selecting a level of compression to apply to a set of data, the method comprising: receiving from a client a request for a set of data; determining a bandwidth available on a communication link used by the client; determining whether the requested data is cacheable at a location between the server and a client; based on the determined bandwidth and whether the data is cacheable at a location between the server and a client, dynamically selecting a level of compression to apply to the set of data; and compressing the data using the selected level of compression prior to transmitting the set of data toward the client. Neeman et al teaches a source sends requested data to clients (page 8, lines 1-3), the bandwidth is determined over the transmission link (page 9, lines 4-6), the level of compression is set according to the bandwidth (page 9, lines 30-32), and the data is compressed (page 9, lines 20-29). It fails to teach of determining whether the requested data is cacheable at a location between the server and a client. Afergan et al teaches of an edge server stores uncompressed content if it

Art Unit: 2141

is cacheable and the data is compressed if cacheable once a request for the data is received (figure 3, paragraph 30).

Neeman et al and Afergan et al are analogous art because they are both related to compressing network data.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the edge server in Afergan et al with the system in Neeman et al because accelerated delivery of content is provided (Afergan et al, paragraphs 9 and 11).

Claim 13 discloses an apparatus for dynamically selecting a level of compression to be applied to data to be transmitted from the apparatus, comprising: a compression module configured to compress, with a specified level of compression, a set of data to be transmitted to a data requester; and a dynamic compression selection module configured to dynamically select said level of compression based on a bandwidth associated with a communication link employed by the data requestor and based on whether the data is cacheable at a location between the server and a client. Neeman et al teaches the data is compressed prior to being transmitted (page 9, lines 20-29), and the level of compression is set according to the bandwidth (page 9, lines 30-32). It fails to teach of compressing based on whether the data is cacheable at a location between the server and a client. Afergan et al teaches of an edge server stores uncompressed content if it is cacheable and the data is compressed if cacheable once a request for the data is received (figure 3, paragraph 30).

Art Unit: 2141

Neeman et al and Afergan et al are analogous art because they are both related to compressing network data.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the edge server in Afergan et al with the system in Neeman et al because accelerated delivery of content is provided (Afergan et al, paragraphs 9 and 11).

Claim 14 discloses the apparatus of claim 13, further comprising: a bandwidth determination module configured to determine the bandwidth of a communication link used by the data requester. Neeman et al teaches the bandwidth is determined over the transmission link (page 9, lines 4-6).

Claim 16 discloses the apparatus of claim 14, wherein said bandwidth determination module is configured to retrieve the bandwidth from a database configured to identify bandwidths associated with data requesters' communication links. Neeman et al teaches shows the bandwidth may be returned from a receiving client who simply reports the bandwidth (page 9, lines 5-6).

Claim 18 discloses the apparatus of claim 13, wherein the apparatus is configured to determine whether the requested set of data is cacheable. Afergan et al further teaches of an edge server stores uncompressed content if it is cacheable and the data is compressed if cacheable once a request for the data is received (figure 3, paragraph 30).

Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neeman et al (Foreign Publication GB 2367219A) in view of Afergan et al (US PGPUB

Art Unit: 2141

US2004/0010621) as applied to claims 7 above, and further in view of Port80 (Non Patent Literature).

Claim 9 discloses the method of claim 7, further comprising: determining whether the set of data is cacheable; wherein a higher level of compression is dynamically selected if the set of data is cacheable than if the set of data is not cacheable. Neeman et al in view of Afergan et al teaches of the limitations of claim 7 as recited above and determining whether the set of data is cacheable (figure 3, paragraph 30). It fails to teach of a higher level of compression is dynamically selected if the set of data is cacheable than if the set of data is not cacheable. Port80 teaches of determining if the data is cacheable and if the data is cacheable it is compressed and if it is not cacheable it is not compressed (page 7, lines 35-38).

Neeman et al in view of Afergan et al and Port80 are analogous art because they are both related to compressing and transmitting data over a network.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the cacheable feature in Port80 with the system in Neeman et al in view of Afergan et al because enhanced performance of the system is provided (Port80, page 7, lines 14-15).

Claim 11 discloses the method of claim 9, wherein said determining comprises: using an identity of the client, retrieving from a data collection a bandwidth associated with the identity. Neeman et al further teaches the bandwidth may be returned from a receiving client who simply reports the bandwidth (page 9, lines 5-6).

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Neeman et al (Foreign Publication GB 2367219A) in view of Afergan et al (US PG PUB US2004/0010621) in view of Port80 (Non Patent Literature) as applied to claim 9 above, and further in view of Willes et al (US PG PUB US2005/0120128).

Claim 10 discloses the method of claim 9, wherein said determining comprises: transferring to the client a data object having a known size; and measuring the amount of time required for the transfer. Neeman et al in view of Afergan et al in view of Port80 teaches of the limitations of claim 9 as recited above. It fails to teach of identifying the bandwidth by transferring a known size data object to a client and measuring the amount of time required for the transfer. Willes et al teaches of measuring throughput capacity, which is widely known to transfer a known quantity of data between points to measure bandwidth (paragraph 68).

Neeman et al in view of Afergan et al in view of Port80 and Willes et al are analogous art because they are both related to compressing and transmitting data over a network.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the throughput capacity measuring feature in Willes et al with the system in Neeman et al in view of Afergan et al in view of Port80 because a system to reliably send data across a network which is efficient and able to change to conditions is provided (Willes, paragraph 6).

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Neeman et al (Foreign Publication GB 2367219A) in view of Afergan et al (US PG PUB

Art Unit: 2141

US2004/0010621) as applied to claim 14 above, and further in view of Willes et al (US PG PUB US2005/0120128).

Claim 15 discloses the apparatus of claim 14, wherein said bandwidth determination module is configured to calculate the bandwidth by transferring a known quantity of data between the data requestor and the apparatus. Neeman et al in view of Afergan et al teaches of the limitations of claim 14 as recited above. It fails to teach of identifying the bandwidth by transferring a known quantity of data between the server and the requestor. Willes et al teaches of measuring throughput capacity, which is widely known to transfer a known quantity of data between two points to measure bandwidth (paragraph 68).

Neeman et al in view of Afergan et al and Willes et al are analogous art because they are both related to compressing and transmitting data over a network.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the throughput capacity measuring feature in Willes et al with the system in Neeman et al in view of Afergan et al because a system to reliably send data across a network, which is efficient and able to change to conditions, is provided (Willes, paragraph 6).

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Neeman et al (Foreign Publication GB 2367219A) in view of Afergan et al (US PG PUB US2004/0010621) as applied to claim 13 above, and further in view of Hunt et al (US Patent #5,764,235).

Claim 17 discloses the apparatus of claim 13, wherein the apparatus is configured to determine a size of the requested set of data. Neeman et al in view of Afergan et al teaches of the limitations of claim 13 as recited above. It fails to teach of determining the size of the requested set of data. Hunt et al teaches of determining the amount of data requested in the request (column 9, lines 37-54).

Neeman et al in view of Afergan et al and Hunt et al are analogous art because they are both related to transmitting data over a network based on conditions.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the amount determination in Hunt et al with the system in Neeman et al in view of Afergan et al because available bandwidth is used more efficiently (Hunt, column 2, lines 10-12).

Response to Arguments

Applicant's arguments with respect to claims 1, 6, 7, 12, and 13 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Gillis whose telephone number is 571-272-7952. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2141

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Brian J Gillis
Examiner
Art Unit 2141

BJG



RUPAL DHARIA
SUPERVISORY PATENT EXAMINER